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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 VINCENT PAUL MELENDREZ,
9
10 Petitioner,

v.

11 MARGARET GILBERT ,
12
Respondent.

CASE NO. 17-984 RAJ

**ORDER LIFTING STAY,
DIRECTING ANSWER, AND
SUBSTITUTION OF NAMED
RESPONDENT**

13 Before the Court is an amended petition for writ of habeas corpus (amended petition) that
14 Petitioner's habeas counsel filed on September 27, 2017. Dkt. 18. The amended petition raises
15 the following grounds for relief:

- 16 1. The trial court's ruling violated Petitioner's right to present a complete defense
17 and privilege against self-incrimination. *Id.* at 12.
18 2. The information was constitutionally deficient, and the trial court erred when it
19 denied Petitioner's request for a bill of particulars. *Id.* at 20.
20 3. The trial court's rulings denying Petitioner the identity of the unknown male
21 witness resulted in a denial of the right to confrontation and to present a complete
22 defense. *Id.* at 28.
23 4. Petitioner's trial counsel was ineffective by failing to investigate R.M.'s sexual
partners and by failing to argue that R.M.'s prior bad acts and the discipline to
which she was subject were admissible as evidence of fabrication. *Id.* at 30.

The Court stayed the amended petition, at Petitioner's request, in order to permit him the

1 opportunity to exhaust ground four for relief: that he was denied effective assistance of counsel.
2 *See* Amended Habeas Petition. Dkt. 18, and Dkt. 19 (Petitioner "moves for a stay of his pending
3 federal habeas corpus proceeding while he returns to state court to exhaust ineffective assistance
4 of counsel claims.").

5 On April 29, 2021, Respondent filed a status report indicating state proceedings are
6 complete and the Court therefore should lift the stay of the federal habeas proceedings and direct
7 Respondent to file an answer to the amended habeas petition. Dkt. 51. On May 4, 2021,
8 Petitioner filed a motion to lift the stay of proceedings, Dkt. 53 and a 116 page motion for
9 subterfuge for the purpose of showing that the fourth ground for relief (ineffective assistance of
10 counsel) "is indeed part of the basis for relief asserted in both his first and second PRP's and in
11 order to order to demonstrate that the exhaustion of this Ground for Relief is a matter for
12 determination by this Court." Dkt. 54 at 2.

13 As the parties agree the stay of proceedings should be lifted, the Court ORDERS:

- 14 1. The stay of proceedings is lifted.
- 15 2. Respondent shall file an Answer to the amended petition, and the relevant
16 portions of the state court record. Petitioner has raised the issue of whether the fourth ground for
17 relief (ineffective assistance of counsel) is part of the basis for relief asserted in the first and
18 second PRP's Petitioner filed in the state courts. Respondent shall thus address this issue.
- 19 3. Respondent shall file the Answer and record by July 14, 2021.
- 20 4. Any reply that Petitioner wishes to file must be filed by July 28, 2021.
- 21 5. The Clerk shall note the amended petition, Dkt. 18, on July 30, 2021, as ready for
22 the Court's consideration.

6. A notice was filed that the proper Respondent is Ronald Haynes as the prior Respondent, Margaret Gilbert, has retired. The clerk shall therefore substitute Ronald Haynes as Respondent in this matter.

7. The clerk shall provide the parties with a copy of this order.

DATED this 6th day of May 2021.


BRIAN A. TSUCHIDA
United States Magistrate Judge